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17 *Attorneys for Plaintiffs John Hastings and Jill  
18 Hastings, Individually and on behalf of all  
19 others similarly situated*

20 **UNITED STATES DISTRICT COURT**

21 **DISTRICT OF NEVADA**

22 JOHN HASTINGS AND JILL  
23 HASTINGS, INDIVIDUALLY AND  
24 ON BEHALF OF ALL OTHERS  
25 SIMILARLY SITUATED,

26 Plaintiffs,

27 v.

28 TRIUMPH PROPERTY  
MANAGEMENT CORPORATION  
AND KIXIE ONLINE, INC.

Defendants.

Case No.: 2:16-cv-00213-JAD-PAL

**JOINT STIPULATION AND ORDER  
TO WITHDRAW TRIUMPH  
PROPERTY MANAGEMENT  
CORPORATION'S MOTION TO  
DISMISS**

ECF Nos. 46, 52

29 **IT IS HEREBY STIPULATED BY AND BETWEEN** Plaintiffs, John  
30 Hastings and Jill Hastings (hereinafter collectively “Plaintiffs”), and Defendant,  
31 Triumph Property Management Corporation (hereinafter “Triumph”), through  
32 their respective attorneys of record, and subject to this Honorable Court’s  
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1 approval thereon, that the parties hereto jointly agree and hereby do request that  
 2 this Honorable Court issue an Order **(i)** permitting Triumph to withdraw without  
 3 prejudice its pending Motion to Dismiss filed on February 15, 2017 and thereby  
 4 order the Motion to Dismiss withdrawn , such that none of the parties supporting  
 5 or opposing the Motion to Dismiss be deemed a prevailing party for the purpose  
 6 of the Motion to Dismiss and **(ii)** requiring Triumph to file and serve a  
 7 responsive pleading to Plaintiffs' operative First Amended Complaint no later  
 8 than 14 days following receipt of notice of this Honorable Court's entry of the  
 9 Order corresponding with the instant Joint Stipulation.

10 It is further understood and agreed by the parties hereto that it is the intent  
 11 of Triumph to withdraw its pending Motion to Dismiss and thereby permit  
 12 Triumph to file and serve a responsive pleading to Plaintiffs' First Amended  
 13 Complaint, without waiving Triumph's rights to assert any Counterclaims,  
 14 Crossclaims, Third Party Claims and make any amendments thereto, which  
 15 Triumph may file and serve in compliance with the *Federal Rules of Civil  
 16 Procedure*.

17 The parties' instant Joint Stipulation is based upon the following general  
 18 representations:

19 1. On or around February 3, 2016, Plaintiffs instituted the pending  
 20 action by filing their Complaint.

21 2. Thereafter, Triumph's initial counsel of record, Mr. Jacob L. Hafer,  
 22 Esq. of HafterLaw (hereinafter "HafterLaw"), filed a Notice of Appearance of  
 23 Counsel on or round March 30, 2016.

24 3. Subsequently, Triumph, through HafterLaw, filed a Motion to  
 25 Dismiss, Motion to Strike and Motion to Stay Discovery.

26 4. Triumph's above-referenced Motions culminated in Plaintiffs'  
 27 seeking leave to file a First Amended Complaint, which this Honorable Court  
 28 granted, and resulted in the filing of a First Amended Complaint by Plaintiffs on

1 or around January 27, 2017, which remains operative.

2 5. Triumph, through its initial counsel of record, HafterLaw, filed a  
3 Motion to Dismiss on February 15, 2017, which has not yet been heard by this  
4 Honorable Court.

5 6. In or around March 2017, Triumph retained Springel & Fink, LLP  
6 for the purpose of representing its interests in the instant action, in lieu of its  
7 initial counsel of record, HafterLaw.

8 7. On March 7, 2017, counsel for Plaintiffs and Triumph's newly  
9 retained counsel, Springel & Fink, LLP, met and conferred regarding the  
10 procedural posture of the pending action, discovery, Triumph's intended  
11 withdrawal of its Motion to Dismiss, and Springel & Fink, LLP's substitution as  
12 Triumph's attorneys of record, in lieu of HafterLaw.

13 8. At that time, counsel for Plaintiffs and Triumph's newly retained  
14 counsel agreed that a withdrawal of Triumph's Motion to Dismiss and the  
15 expeditious filing of a responsive pleading in this action by Triumph would be in  
16 the best interests of justice and judicial economy.

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1       9. On March 8, 2017, prior to the filing of the instant Stipulation,  
2 Triumph, thorough Springel & Fink, LLP, filed a Substitution of Counsel with  
3 this Honorable Court, wherein it respectfully requests that this Court effectuate  
4 the Substitution of Counsel filed by Triumph.

5 Respectfully submitted.

6 Dated: March 8, 2017

SPRINGEL & FINK, LLP

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8 Bv: /s/ Leonard T. Fink, Esq.

9 Leonard T. Fink, Esq.  
10 10655 Park Run Dr., Suite 275  
Las Vegas, NV 89144  
11 *Attorneys for Defendant*

12 Dated: March 8, 2017

13 KAZEROUNI LAW GROUP, APC

14 Bv: /s/ Michael Kind, Esq.

15 Michael Kind, Esq.  
7854 W. Sahara Avenue  
Las Vegas, NV 89117  
16 *Attorneys for Plaintiffs*

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18 **ORDER**

19       Based on the parties' stipulation [52] and good cause appearing, IT IS HEREBY  
20 ORDERED that Triumph Property Management's **Motion to Dismiss [46]** is **DEEMED**  
21 **WITHDRAWN** and all deadlines related to that motion are vacated. Triumph has 14 days to  
file its answer and any other response to the First Amended Complaint [41].

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Jennifer Dorsey  
U.S. District Judge 3/9/17

